THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 17612 of 2006

Dated: 25.08.2006

Between:

K. Sankarappa, S/o K. Brahmaiah, Retired Conductor, Adhoni, Kurnool District.

.... PETITIONER

AND

The APSRTC, rep. by its Regional Manager, Kurnool, Kurnool District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 17612 of 2006

Order:

This writ petition is filed seeking a Mandamus declaring the action of respondent No.2 in issuing the proceedings dated 20.09.1988, withholding the annual increment of the petitioner for a period of one year with cumulative effect, as illegal and arbitrary.

The petitioner is employed as a Conductor in APSRTC. He was issued a charge sheet, dated 20.07.1988, alleging that he unauthorizedly absent from duties, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted explanation denying the charges framed against him. Respondent No.2, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of withholding the annual increment for a period of one year with cumulative effect. Aggrieved by the same, the petitioner preferred appeal and review before the appellate authorities, which were rejected. Hence, he filed the present writ petition.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]".

On the other hand, learned Standing Counsel appearing on behalf of the respondents-Corporation submitted that respondent No.2-

Depot Manager, after considering the entire material together with the explanation submitted by the petitioner, has passed the impugned order, hence, no interference is called for therewith. He further submits that the cut off date fixed for application of the principle laid down by the Supreme Court in ***Kulwanth Singh Gill v. State of Punjab*** (1 supra), is 01.10.1990, and since the impugned order is dated 20.09.1988 i.e., much before passing of the said judgment, the said principle cannot be applied to the present case.

Heard the learned counsel for both the parties and perused the material available on record.

It is an admitted fact that respondent No.2, by impugned order dated 20.09.1988, imposed punishment of deferment of annual increment for a period of one year with cumulative effect, which is a major punishment. In ***Kulvanth Singh Gill's Case*** (1 supra), which was rendered on 13.09.1990, the apex Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. The cut off date fixed for application of the said principle is 01.10.1990. Since the impugned order is dated 20.09.1988 i.e., much before passing of the said judgment, the said principle cannot be applied to the present case. In that view of the matter, I see no merits in the writ petition, and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

N.V. RAMANA, J.

Date: 25.08.2006
Nsr/Es

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1 1991 Supp (1) SCC 504